

**509.308-2 Testing performed by the Government.**

In FSS solicitations and contracts that will have the Government responsible for first article testing, insert 552.209.73, Supplemental Requirements for First Article Approval—Government Testing, and FAR 52.209-4, Alternate I.

**Subpart 509.4—Debarment, Suspension, and Ineligibility****509.401 Applicability.**

This subpart applies to all the following:

- (a) Acquisitions of personal property, nonpersonal services (including construction), space in buildings, transportation services (Federal Property Management Regulations (FPMR) Subpart 101-40.4).
- (b) The purchase, sale, and disposal of real property.
- (c) Contracts for disposal of personal property (FPMR Subpart 101-45.6).
- (d) Covered transactions as defined at General Services Property Management Regulations (GSPMR) 105-68.110(a).

**509.403 Definitions.**

*Fact-finding official*, means the Chairman of the Debarment and Suspension Board within the GSA Board of Contract Appeals or a designee.

*Notice* means a letter sent by certified mail, return receipt requested, to the last known address of a party, its counsel, or agent for service of process. In the case of a business, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venturer. If no return receipt is received within 10 calendar days of mailing, receipt will then be presumed.

**509.405 Effect of listing.****509.405-1 Continuation of current contracts.**

(a) Consider terminating a current contract under any of the following circumstances:

- (1) Any of the circumstances giving rise to the debarment or suspension also constitute a default in the contractor's performance of the contract.

(2) The contractor presents a significant risk to the Government in completing the contract.

(3) The conduct that provides the cause of the suspension, proposed debarment, or debarment involved a GSA contract.

(b) Determine which of the following is in the Government's best interest:

- (1) Terminate the contract for either convenience or cause.
- (2) Cancel under appropriate contract clauses (e.g., 552.238-73, Cancellation).
- (3) Use other available alternatives under:

- (i) FAR 3.2 and 503.2.
- (ii) FAR 3.7 and 503.7.
- (c) Before making a decision, consult with legal counsel and consider these factors:

- (1) Seriousness of the cause for debarment or suspension.
- (2) Extent of contract performance.
- (3) Potential costs of termination and reprocurement.
- (4) Need for or urgency of the requirement, contract coverage, and the impact of delay for reprocurement.
- (5) Availability of other safeguards to protect the Government's interest until completion of the contract.
- (6) Availability of alternate competitive sources to meet the requirement (e.g., other multiple award contracts, readily available commercial items, etc.).
- (d) The debarring official is the designee under FAR 9.405-1(c).

**509.405-2 Restrictions on subcontracting.**

The debarring official is the designee under FAR 9.405-2(a).

**509.406 Debarment.****509.406-1 General.**

The debarring official is the designee under FAR 9.406-1(c).

**509.406-3 Procedures.**

(a) *Investigation and referral.*

(1) Refer to the debarring official matters involving serious contract improprieties or performance deficiencies. Performance deficiencies that continue over a period of time or apply to more than one contract may warrant debarment consideration.